

# Notice of Allowability

Application No.

10/659,496

Examiner

Raymond J. Bayerl

Applicant(s)

BUSHEY ET AL.

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to application as filed, 10 September 2003 and telephone interview of 19 March 2007.
2. ☒ The allowed claim(s) is/are 1 - 20.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 27 January 2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

**RAYMOND J. BAYERL**  
**PRIMARY EXAMINER**  
**ART UNIT 2173**

19 March 2007

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1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Mr. Lally (registration #38,947) on 19 March 2007.

3. The application has been amended as follows:

In the Specification:

Page 1, line 6—"7,080,323" has been inserted in place of "\_\_\_\_\_".

In the Claims:

Claim 14, line 1, the phrase ", embodied in a machine readable medium," has been inserted after "module".

This Examiner's amendment serves to obviate difficulties with claims 14 - 17 being recited as a "matrix" without tangible fixation, under 35 USC 101, and also to provide an updated reference to the parent application of this continuation-in-part.

4. The following is an examiner's statement of reasons for allowance:

a. Applicant's 4 independent claims 1, 2, 14, 18 have been carefully considered, and found to distinguish patentably over the prior art now made of record. The claims have in common the selection of a "dialogue" on the basis of access to "one or more criteria weights" and "one or more criteria scores" (claim 1 quoted as exemplary). The "selection" by this particular technique distinguishes over general-purpose routing

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arrangements that might prompt the use of a particular "dialogue", as were seen in the art of record.

Gorin et al. (US #6,751,591 B1) determines whether a user dialog will be continued, on the basis of a probability of understanding exceeding a threshold value. It is true that a "score" of sorts is assigned to further interface choices in Gorin et al., with which the ongoing understanding probability is compared, only Gorin et al. do not teach or suggest the joint access of "criteria weights" and "criteria scores".

Bala (US #6,798,876 B1) matches a caller's profile with that of a call center representative, resulting in a ranking of representatives that can best meet the caller's needs. This is accomplished via a correlation function that returns a value that might resemble a "criteria score". However, accessing a "score" in this regard is not accompanied by the access of "criteria weights"--the user and representative profile information that feeds the "score"-generation in Bala, while representing "criteria" per se, does not reasonably read upon using "weights" for the purpose of forming the ranked list of representatives, whose access will represent a selection of a "dialogue".

Beck et al. (US #6,332,154 B2) is notable for teaching that a self-help wizard will direct the user to a particular form of media access, and thus will select "dialogue". However, this selection does not occur on the basis of "criteria weights" and "score" values, and it is the user that ultimately picks the interface type in Beck et al., in any event.

Edwards (US #6,744,877 B1) is concerned with providing the best possible service for a customer communication, and thus will vary a "dialogue" that is put in

place, when it looks among enterprise resources. The enterprise's definition of best service is used in this determination, and "criteria" must be met in looking for the skill set within the resource. However, it is not a set of "criteria weight" and "score" values that are accessed in Edwards, so that the present independent claims have an actual procedure for finding what is best that is patentably distinct.

Warner et al. (US #6,850,949 B2) is particularly notable in that items previously used are subjected to prioritization and ordering, so that a highest usefulness is assured in those items that appear highest in an option list. Warner et al. even discuss the use of a score value that may be varied, as in the "criteria scores" that presently appear in the claims. However, Warner et al. are not promoting a particular interface on the basis of both "criteria scores" and "criteria weights", even if plural criteria may in fact be considered in Warner et al. to generate the "score".

McDonough et al. (US #6,070,142) routes customers to various access resources on the basis of a rule based routing system, which certainly suggests the manipulation of sets of numeric values to determine which approach is best, in establishing a "user interface"'s "dialogue". However, a closer examination will reveal that the rule based access of McDonough et al. does not occur in a way to teach or suggest the use of "criteria weights" and "score" values for the possible "interface" choices.

Watanabe et al. (US #7,107,217 B2) varies a "dialogue" on the basis of a monitoring of whether the interaction is being smoothly conducted, with the possibility of

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calling in a third-party helper to the interaction. But there is no teaching of such "selection" being on the basis of "criteria weights" and "criteria scores".

Anderson et al. (US #7,170,993 B2) uses formal and heuristic reasoning so as to modify a "dialogue" on the basis of "criteria" *per se*. However, like many of the other references noted above, the combination of "criteria weights" and "scores" does not enter into Anderson et al.'s procedure.

Commonly assigned Bushey et al. (US #7,065,201 B2) provides still another example of user interface "dialogue" adaptation to individual user needs, responsive to a call. But this is not performed with "criteria weights" and "scores".

b. The Examiner has reviewed the substantial number of copending and patented US applications that name one or both of the present inventors. For the most part, the claims in these applications are notably different from what has been presently presented, and the issue of judicially-created double patenting does not arise.

Parent application 10/263,552 (now US Patent #7,080,323 B2) of this continuation-in-part application, has claims in which user interface dialogue model selection occurs through the use of both criteria weights and criteria scores (patented claim 18), which provides something of a parallel to the presently-claimed "selection" via "criteria weights" and "criteria score" values.

However, the present claims recite that a sum of the one or more criteria weights multiplied by the respective one or more criteria scores is used, a distinction not found in the patented claims, since the present claims have summing, while it is only multiplying at best that occurs in the patented dependent claims, such as claim 4.

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It is also noted that the storage of the "weights" and "scores" in the present claims is consistently given in terms of a "matrix", while it is instead a "library" that appears in the '323 patent's claims, a significant difference in scope, since matrices are not commonly thought of as being examples of libraries, and vice versa.

Thus, the Examiner deems that the two sets of claims could not be reasonably seen as unduly timewise extending one another.

5. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Raymond J. Bayerl, whose telephone number is (571) 272-4045. The Examiner can normally be reached on M – Th from 9:00 AM to 4:00 PM ET.

6. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Kristine Kincaid, can be reached at 571-272-4063. All patent application related correspondence transmitted by FAX **must be directed** to the central FAX number (571) 273-8300.

7. Any inquiry of a general nature or relating to the status of this application of proceeding should be directed to the receptionist, whose telephone number is (571) 272-2100.



RAYMOND J. BAYERL  
PRIMARY EXAMINER  
ART UNIT 2173

19 March 2007